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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/830,408

07/12/2001

Anthony Peter Hulbert

3036/49866

7037

7590

03/22/2005

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EXAMINER

PEZZLO, JOHN

ART UNIT

PAPER NUMBER

2662

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/830,408

Applicant(s)

HULBERT, ANTHONY PETER

Examiner

John Pezzlo

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1,5-7,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

I. Claims 1, 5-7, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bontu et al. (US 6,418,137 B1) hereinafter Bontu.

1. Regarding claim 1 – Bontu discloses a method of power control in a communications system capable of transmitting a frame having a plurality of time intervals from a transmitter to a receiver, wherein power control is effected on the individual time intervals based upon information passed from the receiver to the transmitter, refer to Figures 1-3 and column 2 lines 50 to 67 and column 4 lines 5 to 35

Bontu does not disclose expressly the receiver seeks to maintain an average signal to noise ratio across the frame.

At the time of the invention, it would have been obvious for an ordinary person of skill in the art to have Bontu seek to maintain an average SNR across the frame. The motivation/suggestion for doing so would have been that Bontu discloses that the period could be

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any period not just a time slot but a frame, refer to column 8 lines 10 to 27. The benefit being, the power control would be maintained on an averaged value rather the instantaneous value and avoid transient errors.

2. Regarding claim 5 – Bontu discloses the time interval is a time slot, refer to column 4 lines 5 to 18.

3. Regarding claim 6 – Bontu discloses communications system is a spread spectrum communications system, refer to column 1 lines 55 to 65 and column 2 lines 1 to 15 and column 8 lines 10 to 27.

4. Regarding claim 7 – Bontu discloses the spread spectrum communications systems is a CDMA communications system, refer to column 1 lines 55 to 65 and column 2 lines 1 to 15 and column 8 lines 10 to 27.

5. Regarding claim 9 – Bontu discloses that the power control system could be a TDMA or CDMA system, refer to column 1 lines 13 to 25.

Bontu does not expressly disclose the duration of a frame corresponds to a burst comprising a plurality of consecutive CDMA frames.

At the time of the invention, it would have been obvious for an ordinary person of skill in the art to have Bontu seek to maintain an average SNR across the frame. The motivation/suggestion for doing so would have been that Bontu discloses that the period could be

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any period not just a time slot but a plurality of CDMA frames, refer to column 8 lines 10 to 27.

The benefit being, the power control would be maintained on an averaged value rather the instantaneous value and avoid transient errors.

6. Regarding claim 10 – Bontu discloses that the power control system could be a TDMA or CDMA system, refer to column 1 lines 13 to 25.

Bontu does not expressly disclose the duration of a frame corresponds to the duration of a CDMA frame.

At the time of the invention, it would have been obvious for an ordinary person of skill in the art to have Bontu seek to maintain an average SNR across the frame. The motivation/suggestion for doing so would have been that Bontu discloses that the period could be any period not just a time slot but a CDMA frame, refer to column 8 lines 10 to 27. The benefit being, the power control would be maintained on an averaged value rather the instantaneous value and avoid transient errors.

***Allowable Subject Matter***

Claim 11 is allowable over the prior art of record.

Claims 2-4 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Stilp (US 2002/0172223 A1) discloses a calibration for wireless location system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pezzlo whose telephone number is (571) 272-3090. The examiner can normally be reached on Monday to Friday from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C.

or faxed to:

(703) 872-9306

For informal or draft communications, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

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Jefferson Building

500 Dulany Street

Alexandria, VA.

John Pezzlo

17 March 2005

A handwritten signature in black ink, appearing to read 'J. Pezzlo', with a stylized flourish extending from the end.

**JOHN PEZZLO**  
**PRIMARY EXAMINER**